

7/19/88
OT 4-20-88
7/18/88 Atty. J. Riege has orig. sig. s.
RESOLUTION NO. 53-88

BLUE RIDGE SEWER IMPROVEMENT DISTRICT

RESOLUTION AUTHORIZING THE CHAIRMAN OF THE BOARD OF DIRECTORS TO EXECUTE A SETTLEMENT AGREEMENT BETWEEN BLUE RIDGE SEWER IMPROVEMENT DISTRICT AND LOWRY AND ASSOCIATES, INC.

WHEREAS, the Blue Ridge Sewer Improvement District has been involved in litigation with Lowry and Associates, Inc.; and

WHEREAS, the litigation has occurred in Navajo County and has been docketed as Case Number C-21079; and

WHEREAS, both parties have agreement to settle the lawsuit; and

WHEREAS, a Settlement Agreement has been drafted which the Chairman of the Board of Directors of the Blue Ridge Sewer Improvement District must sign in order to fully resolve the dispute.

THEREFORE BE IT RESOLVED THAT:

The Board of Directors of the Blue Ridge Sewer Improvement District hereby authorizes and directs the Chairman to sign the Settlement Agreement between Blue Ridge Sewer Improvement District and Lowry and Associates, Inc.

ADOPTED THIS 18th day of April, 1988.

BLUE RIDGE SEWER IMPROVEMENT DISTRICT

BY: 

Chairman

ATTEST:



DM2/BRSIDRes

pb

RESOLUTION NO. 88-8

PINETOP-LAKESIDE SANITARY DISTRICT
BLUE RIDGE SEWER IMPROVEMENT DISTRICT

RESOLUTION AUTHORIZING THE BOARD OF DIRECTORS TO EXECUTE A SETTLEMENT AGREEMENT
BETWEEN BLUE RIDGE SEWER IMPROVEMENT DISTRICT AND LOWRY AND ASSOCIATES, INC.

WHEREAS, the Blue Ridge Sewer Improvement District has been involved in
litigation with Lowry and Associates, Inc.; and

WHEREAS, the litigation has occurred in Navajo County and has been docketed
as Case Number C-21079; and

WHEREAS, both parties have agreed to settle the lawsuit; and

WHEREAS, a Settlement Agreement has been drafted which the Chairman of the
Board of Directors of the Pinetop-Lakeside Sanitary District must sign in order
to fully resolve the dispute.

THEREFORE BE IT RESOLVED THAT:


The Chairman of the Board of Directors of the Pinetop-Lakeside Sanitary
District is hereby authorized and directed to sign the Settlement Agreement
between Blue Ridge Sewer Improvement District and Lowry and Associates, Inc.
and recommends that Blue Ridge Sewer Improvement District execute the same.

ADOPTED this 12 day of April, 1988.

PINETOP-LAKESIDE SANITARY DISTRICT

BY: 
Chairman

ATTEST:



SETTLEMENT AGREEMENT

This Agreement made this _____ day of _____, 1988,
by and between Blue Ridge Sewer Improvement District (BRSID),
Lowry & Associates, Inc. (Lowry), Navajo County (County)
and Pinetop-Lakeside Sanitary District (PLSD)

RECITALS:

WHEREAS, a dispute exists between the aforementioned parties regarding formation, design and administration services for the construction of collector sewers in an area known as proposed Assessment Area 5B (AA5B); and

WHEREAS, a court action was filed by BRSID to determine the rights of the parties arising out of a purported agreement between BRSID and Lowry; and

WHEREAS, Lowry counterclaimed for fees for services rendered; and

WHEREAS, Judgment was granted in favor of BRSID; and

WHEREAS, Lowry appealed from that Judgment; and

WHEREAS, said Judgment was affirmed by the Court of Appeals of the State of Arizona.

AGREEMENTS:

Now, therefore, in consideration of the premises and mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Lowry shall pay \$8,000.00 to BRSID on or prior to the date of this agreement.
2. Lowry shall deliver the Plans and Specifications they drafted for the collector sewers in proposed AA5B to BRSID with the explicit understanding that the plans may be used in whole or in part as a part of other plans in one or more sewer improvement districts which may cover all or part of the area which was included in proposed AA5B, and Lowry shall make no claim thereafter.
3. PLSD shall pay \$8,000.00 to BRSID for the use of the plans.
4. BRSID shall pay the \$16,000.00 collected as described above to Navajo County.
5. Navajo County has paid more than \$16,000.00 in legal fees and hereby agrees not to attempt to recover payment of those fees from any party to this agreement.
6. Lowry hereby releases and forever discharges Navajo County, BRSID, and PLSD, their directors, manager, insurers, agents, attorneys, and employees,

from any and all claims, demands, actions and causes of action, and all liability whatsoever, on account of, or in any manner arising or to arise out of the events surrounding the attempted formation of BRSID AA5B, or the design of sewers therein, in particular contracts for engineering services by and between Lowry and BRSID dated March 25, 1980.

7. BRSID, PLSD and Navajo County hereby release and forever discharge Lowry, its insurers, agents and employees, from any and all claims, demands, actions and causes of action, and all liability whatsoever arising out of or to arise out of the events surrounding the attempted formation of BRSID AA5B, and out of the contract for engineering services by and between BRSID and Lowry dated March 25, 1980.

8. The execution of this instrument by the undersigned releases all claims, demands and causes of action of any kind whatsoever in connection with the above-mentioned occurrence regarding Assessment Area 5B of the BRSID including property damage of any kind, known injuries, and/or damages, complications and consequences of known injuries or damages even though presently unsuspected and unknown injuries or damages.

9. THIS SETTLEMENT AGREEMENT IS INTENDED TO AND DOES COVER ANY AND ALL CLAIMS ARISING OUT OF THE TRANSACTION WHICH WAS THE SUBJECT MATTER OF CIVIL LAWSUIT NUMBER C-21079 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA IN AND FOR THE COUNTY OF NAVAJO, WHETHER KNOWN TO THE PARTIES AT THE TIME OF EXECUTION OF THIS AGREEMENT OR NOT, WHICH MAY HAVE RESULTED OR MAY HEREINAFTER RESULT OR WHICH MAY HEREINAFTER BE DISCOVERED AND WHICH MAY HAVE BEEN THE DIRECT RESULT OF SAID TRANSACTION.

10. BRSID and Lowry hereby agree to dismiss Civil Lawsuit Number C-21079, with prejudice.

11. BRSID hereby covenants not to execute the Judgment it possesses against Lowry.

12. The parties to this instrument recognize it is understood and agreed that the respective payments and promises contained within this agreement are not to be construed as admissions of liability on the part of BRSID, Lowry, Navajo County, and PLSD, or any of them, liability therefor being expressly denied, such payments and promises are made in compromise and settlement of the disputed claim. The parties to this instrument hereby agree that this agreement covers all claims arising out of the transactions which are the subject matter of the aforementioned lawsuit, all parties agree to pay his own attorney's fees and costs incurred therein.

13. BRSID, PLSD and Navajo County will each assume its own attorneys fees and costs in the resolution of this matter and each agree to discharge and release any and all claims of one against another arising out of the transactions described in this agreement.

14. The undersigned agree to and hereby bind their successors and heirs, administrators, executors, assigns and personal representatives to this agreement and to each of its terms and conditions.

IN WITNESS WHEREOF, BRSID, Lowry, Navajo County, and PLSD have caused the Agreement to be duly executed on the date set forth above.

BRSID
Blue Ridge Sewer
Improvement District

BY: 

Its _____

STATE OF ARIZONA

COUNTY OF _____

)
) ss.
)

On this _____ day of _____, 198____, before me the undersigned Notary Public, in and for the County of _____, State of Arizona, personally appeared, _____, known or identified to me to be the person whose name is subscribed to the within instrument, and he/she acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

Notary Public

My Commission Expires:

Lowry
Lowry and Associates, Inc.

BY: Alfred W. Jorgensen
Its Executive Vice President

STATE OF CALIFORNIA

COUNTY OF San Diego

)
) ss.
)

On this 30th day of March, 1988, before me the undersigned Notary Public, in and for the County of San Diego, State of Calif., personally appeared, Alfred W. Jorgensen, known or identified to me to be the person whose name is subscribed to the within instrument, and he/she acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

Lene Thompson
Notary Public

My Commission Expires:

October 12, 1991

County
Navajo County

BY: _____

Its _____

STATE OF ARIZONA

COUNTY OF _____

)
) ss.
)

On this _____ day of _____, 198____, before me the undersigned Notary Public, in and for the County of _____, State of _____

Arizona, personally appeared, _____, known or identified to me to be the person whose name is subscribed to the within instrument, and he/she acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

Notary Public

My Commission Expires:

PLSD
Pinetop-Lakeside Sanitary District

BY: Kurt Rhom
Its Chairman

STATE OF ARIZONA

COUNTY OF Navajo

)
) ss.
)

On this 12 day of April, 1988, before me the undersigned Notary Public, in and for the County of Navajo, State of Arizona, personally appeared, Kurt Rhom, known or identified to me to be the person whose name is subscribed to the within instrument, and he/she acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

[Signature]
Notary Public

My Commission Expires:

[Signature]

D2/Settle

34216

03-30-88 Settlement per attached agreement

8,000.00

CHECK NO.	CHECK DATE	MEMO NO.
34216	03-30-88	

34216

NEBS/L
CITY OF SAN FRANCISCO
SAN FRANCISCO, CALIF. 94102

PAID TO THE ORDER OF
CITY OF SAN FRANCISCO
SAN FRANCISCO, CALIF. 94102

Eight Thousand and no/100 Dollars

CHECK AMOUNT
\$8,000.00

PAY
TO THE
ORDER OF
Blue Ridge Sewer Improvement District

ST Seal
Sam Thompson

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